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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,650	07/28/2003	John A. Abdalla	ABDL/03/261	4425
26875	7590	02/17/2005	EXAMINER	
WOOD, HERRON & EVANS, LLP			WAKS, JOSEPH	
2700 CAREW TOWER				
441 VINE STREET			ART UNIT	
CINCINNATI, OH 45202			PAPER NUMBER	
			2834	

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/628,650

Applicant(s)

ABDALLA, JOHN A.

Examiner

Joseph Waks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-21 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 28 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/4/03.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a working model, or an asserted utility or a well established utility.

The claimed features of the first fluid in the drain tank flowing into the fluid chamber when the drain tank gravitationally descends around the plug, and the air being drawn into the drain tank when the plug gravitationally descends through the drain tank thus permitting the drain tank and the plug to buoyantly ascend are not enabled by the disclosed system. Examiner directs applicant's attention that this scenario is in violation with the Archimedes Principle of hydrostatic and buoyancy of bodies.

As indicated in the specification (Re page 10, lines 21—24 and page 11, lines 1-3) applicant anticipates that after emptying the float tank to the drain tank and opening the valves 54 and 56 the fluid from the drain tank will flow into the fluid chamber.

However, in order to do so the static head of the liquid in the drain tank must be higher than the static head of the liquid in the fluid chamber. That is clearly not the case in the disclosed system. Consequently, if the drain tank can't be emptied it will also make impossible to empty the float tank into the drain tank.

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Furthermore, if the plug is allowed to descent under gravity, the liquid from the fluid chamber will fill the vent pipe through the drain tank until the levels in the pipe and in the chamber will equalize, leaving the drain tank filled with liquid.

Examiner believes that the disclosed system will be inoperable since it will not allow for repeated ascents and descents of the float tank because there will be no place to empty the float tank after completion of the system first cycle.

Claims 1-16 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a working model or an asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 17-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Jackson, Sr. (US 4,083,186).

Jackson, Sr. discloses invention as claimed: a fluid source 36, an upper reservoir 34 for holding a stored fluid from the fluid source, a shaft 148, 158, 160 having a straight portion 148, the shaft vertically communicating with the upper reservoir, a shaft one-way and replenishment valves 162, 162' operably

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connected to the shaft, the shaft one-way valve configured to pass water to a discharge end of the shaft, a fluid replenishment source 170 operably connected to the shaft for refilling the discharge line, a float tank 46, 48, 50, 52 having variable buoyancy allowing descent and ascent within the upper reservoir, the float tank having a piston 156 with an outer diameter less than the inner diameter of the discharge shaft and vertically translating within the shaft to force the stored fluid through the shaft during descent.

### ***Prior Art***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Waks whose telephone number is (571) 272-2037. The examiner can normally be reached on Monday through Thursday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren E. Schuberg can be reached on (571) 272-2044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. Waks', is positioned to the left of the printed name.

Joseph Waks  
Primary Examiner  
Art Unit 2834

2/15/05